



Northampton Special Act Charter Drafting Committee

*David P. Stevens, Chair
Gail L. Perlman
Madeline Weaver Blanchette
Marc Warner
Richard Greene*

*Todd Thompson
William Scher
Thomas Miranda
Megan Murphy Wolf*

Stephen McGoldrick, Deputy Director, Edward J. Collins, Jr. Center for Public Management, University of Massachusetts

Minutes

Wednesday, November 9, 2011

6:00 pm in City Hall Hearing Room 18, 210 Main Street

Chairman David Stevens called the meeting to order at 6:00 p.m.

Present: David Stevens, Gail Perlman, Madeline Weaver Blanchette, Marc Warner, Richard Greene, Todd Thompson, William Scher, Megan Murphy Wolf

Absent: Stephen McGoldrick, Thomas Miranda

David Stevens called the meeting to order at 6:00 p.m. and introduced Gail Perlman. David Stevens explained that the meeting will go through sections, with the rest of the meeting as preparation for the November 15, 2011 public hearing. Public comment: one man observing, no comments. Ms. Emily Odgers is videotaping this meeting for North Street Association.

David Stevens explained to Gail how this Committee is going through sections of the Charter: read through, questions, not making decisions, just collecting information to make decisions. The Committee must form questions for the public hearing on November 15, 2011. The Committee will also ask the public to submit written comments to the Clerk, Mary Midura.

1. The Executive Branch (Continued from October 26, 2011)

- Section 3-5: Communications; Special Meetings
- Section 3-6: Approval of Mayor, Veto
- Section 3-7: Temporary Absence of the Mayor
- Section 3-8: Delegation of Authority by Mayor
- Section 3-9: Vacancy in Office of Mayor

Discussion:

Richard Greene: What does mayor do now? David Stevens: Mayor can call special meeting anytime.

Megan Murphy Wolf: What are the requirements for mayor to report? David Stevens: Fiscal Committee language states "mayor shall from time to time".

Todd Thompson: This is where section 5 comes in.

David Stevens noted he can talk to Steve McGoldrick about language for special meetings of Council.

Marc Warner: "time to time" more specific?

Richard Greene: state mandated budget in

Marc Warner: 3:6 – Veto – 30 day timeline, 3:7 Temp Abs of Mayor, Acting Powers, Vacancy of, Council President to serve as Mayor (pg.5,6,7), who declares sickness or cause?

William Scher: If Mayor in coma, mental incapacity, any rule or protocol other towns adopted, area that is vague

Richard Greene: Example of when Mayor Clare Higgins had surgery

William Scher: Michael served as Acting Mayor

Megan Murphy Wolf: same as now made David Narkewicz acting

David Stevens: capacity issue

Marc Warner: office, declare

David Stevens: could lead to a coup

Todd Thompson: some clerks don't show up for work, some must have if not fit to serve

David Stevens: proposing 40-hour week

William Scher: City Council – unfit – court –if dispute

David Stevens: put Gail on the spot – comfortable with that language – if contested

Gail Perlman: not aware this could bring to court – some level

Madeline Weaver Blanchette: do not see how this would be

David Stevens: if six decide David Stevens is incompetent, where to draw the line

William Scher: could give Council that power, constitutional right to do, not there now

Gail Perlman: recall – that would be proper mechanism, vote on City Council

William Scher: high powers, misdemeanors, could leave vague in recall part

Richard Greene: if six Councilors – just can't do that, recall is obvious way, must have guts to say Mayor

Madeline Weaver Blanchette: does not say who would activate – not Mayor, passive language - the point is legitimate, accident or other

Marc Warner: Temporary Absence of Mayor, not issue of sickness, unable to perform duties, not for broader, temp

William Scher: absence of mayor, out of town

Gail Perlman: clause “unable to perform duties of office” sickness, “other cause” is murkiness – causes would worry – written not can come say unable to perform

David Stevens: nearby city, Council, Mayor and City Clerk at war, almost impeachment s/b recall

Gail Perlman: acting mayor gains power only those indispensable

David Stevens: concerns – raise when around, come up in discussion

David Stevens: powers of acting mayor – no questions? 3:8 – authority of mayor

Gail Perlman: definition section “disability”

Megan Murphy Wolf: emergency 3:5(b) page 4

Marc Warner: when Mayor resigned, David Narkewicz took over, were his powers constrained

William Scher: unless 60 days, not know current charter

David Stevens: make note of that

Richard Greene: would David Narkewicz have option to be paid – vague but argue could have

David Stevens: if again, should that person be entitled to full salary for period of time as acting mayor

Todd Thompson: if decline, fine, matter of taxes?

Gail Perlman: salary connected to acting mayor, not full powers

David Stevens: post hearing, clean language

Madeline Weaver Blanchette: could become imposition on someone, no salary

David Stevens: confusion, acting mayor working only few hours week

Marc Warner: exception, some other job, did not apply to acting mayor

Madeline Weaver Blanchette: how would that person support themselves, duties, without power of office, onerous burden on

Richard Greene: knew mayor not coming back, David Narkewicz finish term whether elected or not, stay healthy

William Scher: provision if City Council pres chose not to take acting mayor, City Council could elect

Megan Murphy Wolf: not if - resign as president

David Stevens: delegation 3:8 any? 3:9 Vacancy of mayor – special election w/in 90 days fill balance of term, not if 120 days out

Marc Warner: area where not about contingency plans, Council president

David Stevens: 1887 when mayor was part-time, now full-time mayor – things need to be institutionalized

William Scher: coupe – only for 90 days – capacity

Todd Thompson: January term start

David Stevens: This topic will generate public discussion

William Scher: criticism of time frames

David Stevens: Per the charter last 50 years, should have resigned from City Council president/acting mayor to run for mayor?

William Scher: specific of structure, special election in less than 90 days

David Stevens: incumbent – City Council president, if not as publicly known, potential president City Council run meetings

(b) Serve – powers and terms of office

Richard Greene: another councilor

Megan Murphy Wolf: legislative body, did we talk of Council Vice President to step in when City Council president unavailable?

David Stevens: Mayor and City Council President – potential that City Council president run meeting, look at Vice President when/if that happens

2. Administrative Organization and Financial Procedures

- Deliberate and decide upon the method of establishing and modifying the administrative organization including boards and commissions.
- Deliberate and decide upon budgeting, financial forecasting, capital planning and other financial procedures.

3. Elections and Citizen Relief Mechanisms

- Deliberate and decide upon nomination and election procedures.
- Deliberate and decide upon free petition, initiative petition, and referendum and recall provisions.

4. Discussion of Public Hearing – Tuesday, November 15, 2011 at 6:30 p.m. in City Council chambers, NCTV will televise.

- Roles for Pro and Con of Public Forum Questions

Discussion:

David Stevens: questions for meeting

Todd Thompson: primary elections, cost, voting earlier, exploring

David Stevens: incorporate in question, public hearing, topic areas

William Scher: Public Forum notice, draft article basically, media push of mayor concepts out to public, as far as actual meeting, have 3 hours, end for what missed, 30 minutes, five broad topics

David Stevens: can add to Re-issue as new Final Notice – augment list with other areas

William Scher: for argument, six topics – 15 minute introductions, 2 hours 15, about 20 min each topic regarding mayor and city council, take down city clerk question

David Stevens: brainstorm for hearing, sign and walk through format with sections of charter, public comment, focus on section 1

William Scher: if we take responsibility of basic pro and con, 2 minutes each for side to focus, then open to floor, with astern moderator, much ground to cover

Richard Greene: debating defeats purpose of public comment, our job is to sit back and listen to what public has to say, inevitably the citizens must vote on this

Marc Warner: point taken, but intermediate spot, suggest slides pros & cons

Gail Perlman: suggest handouts of pro and con to conserve time

Madeline Weaver Blanchette: expedite the conversation, knock out obvious, talking to people, have ideas unrelated different form of government, how interface

Todd Thompson: public comment at front

William Scher: miscellaneous space, think if do up front, some will talk of what will get to

Todd Thompson: pro and con on screen – welcome comment – walk through

David Stevens: slide on each – executive, length of term, qualifications, duties, hear options, pro/con into debate, people to speak to mayor 2 or 4 year term, Committee members each take one section – Bill (Scher) take executive, move along, David Stevens as chair move people, new information, move forward, play bad cop

Todd Thompson: frame and interface

David Stevens: we are there to gain information, not lecture

Gail Perlman: pro/con seen as complicated, frame slide as benefit/choices, suggest if we do not meet the time, encourage written comments from the public

David Stevens: put in writing, email, meeting, write to us, press release drafted, start and end on time

Gail Perlman: any topics in charter not reviewed before Public Forum, preliminary election, petition, referendum, recall

David Stevens: As much info into writing, chance to review in later November into December, another meeting with draft as final, or 2nd public hearing

Gail Perlman: meeting minutes, if not chance to do, frame benefits/choices

Marc Warner: powerpoint, more screens, questions, logistics

Todd Thompson: those who arrive have to say, framed discussion may not suit

David Stevens: public forum not public hearing

Madeline Weaver Blanchette: if submit in writing, what context reviewing?

David Stevens: background information, through discussion, note of emails

Madeline Weaver Blanchette: will inform our discussion

Mary Midura, clerk: attaching to minutes

Richard Greene: how to make decisions, want united front on document

David Stevens: best package, saw in Holyoke, parts must be fully detailed, some pro/con, vote package down on one

Gail Perlman: methods “I can live with this”, consensus

William Scher: if comes up, consensus

David Stevens: introductions, welcome, written comment welcomed, public forum, questions in certain format, slides with choices, range of choices, one area at time, ask people to speak w/in topic base, each member Committee take areas, move on, time up, clock in mind, how many in room? Whether there are 5 or 500 in room. Do we want to do polling? Terms equal to 2 or 4 years? Anyone new information, quick sense of the group, who came out tonight

William Scher: dangerous, not real cross section of those

David Stevens: not direction to go, any new info, move on, submit in writing, positions in one area, move on, other things with topics

Todd Thompson: each speak on topics

David Stevens: Question of who shows up, 5 or 500 changes dynamic that night

Gail Perlman: approach should give as many time to speak

Madeline Weaver Blanchette: councilor or former mayor could submit persuasive on topic, or public acknowledge expertise, not dominate
 David Stevens: elected officials have a vested interest, this is public decision
 Gail Perlman: alert to hear from public
 William Scher: not special, we should all talk to councilors and at-large, to wards, on calendars, if asking for something special, not special time
 Todd Thompson: charter through City Council, concern to sell to Council as well
 David Stevens: council has vote, go to Ordinance Committee, must approve Charter to go to legislature to get on ballot
 William Scher: Council has right to amend, structure of forum
 David Stevens: five areas already on public forum questions
 William Scher: put mayor above as first question
 Marc Warner: sure compensation is function of Charter?
 David Stevens: not required to do, Stephen McGoldrick suggests to consider
 Todd Thompson: first meeting, benefits, transparency
 David Stevens: should City Council compensation go up, flat salary with no benefits, or should it be other, list of five, any other areas, petitions, recall concept would get discussion
 Todd Thompson: primary issue, current requires preliminary elections, a financial burden for city, alternates to avoid burden
 David Stevens: today's agenda 6 and 7, under 4 would be; last two sentences of #1, put under #3 Term discussion, should be limited , #1 end with more/less
 William Scher: 3 hour meeting, 8 topics, do we have to do all eight?
 David Stevens: input of these areas submit in writing
 Todd Thompson: what if forum goes over like late council meeting
 Richard Greene: more candidates
 David Stevens: currently with benefits background
 Gail Perlman: add Mayor to #2
 Mary Midura, clerk: City Council meeting also that week

- #1 - As on Public Forum notice – up to “at-large members”
- #2 – As on Public Forum notice- add Mayor
- #3 – AS on Public Forum notice – as mayor, cc, sc – term, limits
- #4 – As on Public Forum notice
- #5 – City Clerk
- #6 – Free petitions, refer, recall – from Nov 9
- #7 – Elections procedures – from Nov 9
- #8 – Temp absences – from Nov 9

David Stevens: have 8 topics

What should be on the Public Forum agenda?

- #1
- #3 s/b 2nd
- #2 s/b 3rd
- #4 is 4th
- #8 s/b 5th Temporary absence, delegation
- #5 City Clerk is 6th
- #7 Nominations & Election procedures
- #6 Free Petitions & Recalls

David Stevens: who will lead discussion and craft slide
 William Scher: volunteer to take #1
 Todd Thompson: will take #3
 Megan Murphy Wolf: will take #2 – 2 or 4 years, term limits
 Madeline Weaver Blanchette: will take #4
 Marc Warner: will take #7 Nom & Elections
 Gail Perlman: will cover Free Petitions & Recalls #6
 Richard Greene: will do #8 is 5th
 Thomas Miranda will be asked to take on #5
 David Stevens: send all powerpoint text to David Stevens, straight text, speed reading, not long
 Megan Murphy Wolf: share by Friday, send all and sort out, get by Monday
 David Stevens: each send final by Friday, final drafts put into powerpoint, create, circulate, and get final by Monday. Get to David Stevens by Sunday 6:00 p.m., send by Friday to all members, comments to end of weekend, final copy by Sunday night, all feedback by end of Saturday
 Gail Perlman: do we have drafts of topics? Yes, on tonight's agenda
 Ms. Midura will reorder the topics, per discussion, and re-post the notice of the November 15, 2011 Public Forum
 Todd Thompson: Question on the compensation issue, there is much data, should there be a handout?
 Madeline Weaver Blanchette: less is more
 Richard Greene: think big subject
 Megan Murphy Wolf: give handout with numbers, data
 William Scher: few numbers
 David Scher: source October 26, 2011 minutes, not fifteen towns, benefits can elect to take, not who takes
 Richard Greene: quick read-through, ask comments, simple as temporary, comments
 Madeline Weaver Blanchette: ward 3 people can come up
 Gail Perlman: too many topics, burden on all, set up of subject, suggest only 3 or 4 people, need to decide which things most important
 David Stevens: divide meeting in half with first 4 hot topics, other topics at a later forum
 Madeline Weaver Blanchette: Committee can learn from mistakes, difficulty in whole thing is balance and to get best Charter as possible
 Marc Warner: suggest if all subjects, if all spoke 3 minutes
 Todd Thompson: suggest concurrent discussion
 David Stevens: Committee wants to hear from the public, consider Gail's position, remember legality of Open Meeting Law, move other 3 topics to a second public forum, learn from here with almost half hour with 5 topics
 William Scher: suggest more public forums, go the extra mile to get public input, if not doing ask mayor 2nd meeting, less people
 David Stevens: should stay close to posted
 Richard Greene: agree there is too much, people need time to absorb, if run long on heavy subjects, these meetings are public
 Todd Thompson: suggest we not rush, public comment once Charter proposed out, open questions, hang back, maybe motivated, if not big turnout, with good chance
 Gail Perlman: if stick with agenda as posted, add changes
 Madeline Weaver Blanchette: consider any other topics
 William Scher: give catch-all, if time
 Richard Greene: some live, new form of government
 David Stevens: other topics with a date? Date for a second Public Forum on December 14, 2011, plan B is to hold on November 30, 2011
 Gail Perlman: this information important, not benefit from mushy

David Stevens: Plan C is December 6, ²⁰¹¹ for 2nd public forum, there is no preparation time for November 30, 2011, but prepare on November 30, 2011 for public forum on December 6, 2011, save this discussion to include Stephen McGoldrick. Committee members for next Tuesday, November 15, 2011, 6:30 -9:30, William Scher, Todd Thompson, Megan Murphy Wolf, Madeline Weaver Blanchette, Thomas Miranda. Give introduction information, city charter comments, public forum, input into certain areas, all info posted, focus on five areas, basically 30 minutes each, jump in where necessary, announce 2nd public forum will be December 6, 2011.

Clerk will check if NCTV can televise December 6, 2011 public forum. Come back November 30, 2011 to prepare for 2nd Public Forum with three topics, introductions shorter, other information

Richard Greene: much better plan, perfect

Gail Perlman: good to say to public Committee is not correcting, but writing the City's constitution, regarding issues in broad terms over long period of time. Not focus on recent individual events, not just fixing bad events, but preparation for future generations

Marc Warner: each representing, Committee members post in Wards

Todd Thompson: good way to phrase "Charter for the next 100 years – how would you structure for your grandchildren?"

5. Approval of October 12, 2011 and October 26, 2011 Minutes

Minutes of October 12, 2011: Megan Murphy Wolf moved approval; William Scher seconded. The vote passed on a vote of 7 Yes, 1 Abstention (Gail Perlman).

Minutes of October 26, 2011: Megan Murphy Wolf moved approval: William Scher seconded. David Stevens noted two corrections: Page 2, "Greenfield is smaller, while Pittsfield, Holyoke, and Chicopee are larger". Page 3, Stephen McGoldrick stated, not David Stevens stated. The vote passed on a vote of 7 Yes, 1 Abstention (Gail Perlman).

6. NEW BUSINESS – *Reserved for topics that the Chair did not reasonably anticipate would be discussed -None*

At 8:04 p.m., Richard Greene moved to adjourn and was seconded by Todd Thompson. The vote passed unanimously (8-0).

*Respectfully submitted,
Mary L. Midura
Executive Secretary*

ARTICLE 5

ADMINISTRATIVE ORGANIZATION

SECTION 5-1: ORGANIZATION OF CITY AGENCIES

The organization of the city into operating agencies for the provision of services and the administration of the government may be accomplished only through an administrative order submitted to the city council by the mayor. No administrative order may originate with the city council. The mayor may, subject only to express prohibitions in a general law or this charter, propose to reorganize, consolidate or abolish any city agency, in whole or in part, or to establish such new city agencies as is deemed necessary, but no function assigned by this charter to a particular city agency may be discontinued or assigned to any other city agency unless this charter specifically so provides. The mayor may from time to time prepare and submit to the city council administrative orders that establish operating divisions for the orderly, efficient or convenient conduct of the business of the city. These administrative orders shall be accompanied by a message of the mayor which explains the benefits expected to ensue and advises the city council if any provision of an administrative order shall require amendments, insertions, revisions, repeal or otherwise of existing ordinances. Whenever the mayor proposes an administrative order, the city council shall hold one or more public hearings on the proposal giving notice by publication in a local newspaper, which notice shall describe the scope of the proposal and the time and place at which the public hearing will be held, not less than 7 nor more than 14 days following said publication. An organization or reorganization plan shall become effective at the expiration of 60 days following the date the proposal is submitted to the city council unless the city council shall, by a majority vote, within such period vote to disapprove the plan. The city council may vote only to approve or to disapprove the plan and may not vote to amend or to alter it.

SECTION 5-2: MERIT PRINCIPLES

All appointments and promotions of city officers and employees must be made on the basis of merit and fitness demonstrated by examination, past performance or by other evidence of competence and suitability. Each person appointed to fill an office or position shall be a person especially fitted by education, training and previous work experience to perform the duties of the office or position for which chosen.

ARTICLE 6

FINANCE AND FISCAL PROCEDURES

SECTION 6-1: FISCAL YEAR

The fiscal year of the city shall begin on the first day of July and shall end on the last day of June, unless another period is required by general law.

SECTION 6-2: ANNUAL BUDGET POLICY

The mayor shall call a joint meeting of the city council and school committee, to include the superintendent of schools, before the commencement of the budget process to review the financial condition of the city, revenue and expenditure forecasts, and other relevant information prepared by the mayor in order to develop a coordinated budget.

SECTION 6-3: SUBMISSION OF OPERATING BUDGET; BUDGET MESSAGE

At least 45 days before the beginning of the fiscal year, the mayor shall submit to the city council a proposed operating budget for all city agencies, which shall include the school department, for the ensuing fiscal year with an accompanying budget message and supporting documents. The budget message submitted by the mayor shall explain the operating budget in fiscal terms and in terms of work programs for all city agencies. It shall outline the proposed fiscal policies of the city for the ensuing fiscal year, describe important features of the proposed operating budget and include any major

1 variations from the current operating budget, fiscal policies, revenues and
2 expenditures together with reasons for these changes. The proposed
3 operating budget shall provide a complete fiscal plan of all city funds and
4 activities and shall be in the form the mayor deems desirable. The school
5 budget, as adopted by the school committee shall be submitted to the mayor
6 at least 30 days before the submission of the proposed operating budget to
7 the city council. The mayor shall notify the school committee of the date by
8 which the proposed budget of the school committee shall be submitted to
9 the mayor. The mayor and the superintendent of schools shall coordinate the
10 dates and times of the school committee's budget process under the General
11 Laws.

12 **SECTION 6-4: ACTION ON THE OPERATING BUDGET**

13 *(a) Public Hearing* - The city council shall publish in at least 1 newspaper of
14 general circulation in the city a notice of the proposed operating budget as
15 submitted by the mayor. The notice shall state (1) the times and places
16 where copies of the entire proposed operating budget are available for
17 inspection by the public, and (2) the date, time and place not less than 14
18 days after its publication, when a public hearing on the proposed operating
19 budget will be held by the city council.

20 *(b) Adoption of the Budget* - The city council shall adopt the proposed
21 operating budget, with or without amendments, within 45 days following the
22 date the proposed budget is filed with the city clerk. In amending the
23 proposed operating budget, the city council may delete or decrease any
24 amounts except expenditures required by law, but except on the
25 recommendation of the mayor, the city council shall not increase any item in
26 or the total of the proposed operating budget, unless otherwise authorized
27 by the general laws. If the city council fails to take action on any item in the
28 proposed operating budget within 45 days after its receipt, that amount

1 shall, without any action by the city council, become a part of the
2 appropriations for the year, and be available for the purposes specified.

3 **SECTION 6-5: CAPITAL IMPROVEMENT PROGRAM**

4 (a) Submission - The mayor shall submit a capital improvement program to
5 the city council at least 120 days before the start of each fiscal year. The
6 capital improvement program shall include:

7 (1) a general summary of its contents;

8 (2) a list of all capital improvements proposed to be undertaken during the
9 next ensuing 5 years, with supporting information as to the need for each
10 capital improvement;

11 (3) cost estimates, methods of financing and recommended time schedules
12 for each improvement; and,

13 (4) the estimated annual cost of operating and maintaining each facility and
14 piece of major equipment involved.

15 This information is to be annually revised by the mayor with regard to the
16 capital improvements still pending or in the process of being acquired,
17 improved or constructed.

18 (b) Public hearing - The city council shall publish in at least one newspaper
19 of general circulation in the city a notice stating: (1) the times and places
20 where entire copies of the capital improvements program are available for
21 inspection by the public; and, (2) the date, time and place not less than 14
22 days after such publication, when a public hearing on said plan
23 will be held by the city council.

24 (c) Adoption - At any time after the public hearing but before the first day of
25 the last month of the current fiscal year, the city council shall by resolution
26 adopt the capital improvements program with or without amendment,
27 provided that each amendment must be voted separately and that any
28 increase in the capital improvements program as submitted must clearly
29 identify the method of financing proposed to accomplish such increase.

SECTION 6-6: INDEPENDENT AUDIT

The city council shall annually provide for an outside audit of the books and accounts of the city to be conducted by a certified public accountant, or a firm of certified public accountants, which has no personal interest, direct or indirect, in the fiscal affairs of the city or any of its officers. The mayor shall annually provide to the city council a sum of money sufficient to satisfy the estimated cost of conducting the audit as presented to the mayor, in writing, by the city council. The award of a contract to audit shall be made by the city council on or before September 15 of each year. The clerk of committees shall coordinate the work of the individual or firm selected. The report of the audit shall be filed in final form with the city council not later than March 1 in the year following its award.

SECTION 6-7: EXPENDITURES IN EXCESS OF APPROPRIATIONS

Except as otherwise may be provided by law, no official of the city of Northampton shall knowingly and intentionally expend in any fiscal year any sums in excess of the appropriations, awards, grants or gifts, duly made in accordance with law, or involve the city in any contract for the future payment of money in excess of these appropriations, awards, grants or gifts. It is the intention of this section that section 31 of chapter 44 of the General Laws shall be strictly enforced. Any official who violates this section shall be personally liable to the city for any amounts so expended to the extent that the city does not recover these amounts from the person to whom the sums were paid.

ARTICLE 7

ELECTIONS

SECTION 7-1: PRELIMINARY ELECTIONS¹

¹ Preliminary elections are not required.

1 A preliminary election for the purpose of nominating candidates for mayor,
2 city councilors and school committee members shall be held on the third
3 Tuesday in September in each odd-numbered year in which a mayor is to be
4 elected, but the city clerk may, with the approval of the city council,
5 reschedule this election to the fourth Tuesday to avoid a conflict with any
6 civil or religious holiday. Whenever a special election to fill a vacancy in the
7 office of mayor is to be held, a preliminary election shall be conducted, if
8 necessary, 28 days before the date established for the special election.

9 **SECTION 7-3: PRELIMINARY ELECTION PROCEDURES**

10 (a) *Signature Requirements* - The number of signatures of voters required to
11 place the name of a candidate on the official ballot to be used at a
12 preliminary election shall be as follows: for the office of mayor not less than
13 500 such certified signatures, provided, however, that at least 25 signatures
14 must be certified from each ward; for the office of councilor-at-large, ward
15 councilor, school committee member at large or ward school committee
16 member, not less than 250 such certified signatures. Signatures of voters
17 shall be made on a form prescribed by the registrars of voters and shall be
18 made available no earlier than April 2 in each preliminary election year. Said
19 forms must be submitted to the city clerk on or before 4 o'clock in the
20 afternoon on the forty-fifth day prior to the declared date of such preliminary
21 election. An individual may appear on the ballot for only one office at
22 any preliminary, regular or special election.

23 (b) *Ballot Position* - The order in which names of candidates for each office
24 appear on the ballot shall be determined by a drawing, by lot, conducted by
25 the city clerk at least 40 days before the preliminary election. Such drawing
26 shall be open to the public.

27 (c) *Determination of Candidates* - The 2 persons receiving at a preliminary
28 election the highest number of votes for nomination for an office shall,
29 except as provided by subsection (d) of this section, be the sole candidates

1 for that office whose names shall be printed on the official ballot to be used
2 at the regular or special election at which such office is to be voted upon,
3 and no acceptance of a nomination shall be necessary to its validity. If 2 or
4 more persons are to be elected to the same office at such regular or special
5 city election, the several persons equal in number to twice the number so to
6 be elected receiving at such preliminary election the highest number of votes
7 for nomination for that office shall, except as provided by subsection (d) of
8 this section, be the sole candidates for that office whose names shall be
9 printed on the official ballot. If the preliminary election results in a tie vote
10 among candidates for nomination receiving the lowest number of votes
11 which, but for said tie vote, would entitle a person receiving the same to
12 have their name printed on the official ballot for the election, all candidates
13 participating in said tie vote shall have their names printed on the official
14 ballots, although in consequence thereof there shall be printed on such
15 ballots the names of candidates exceeding twice the number to be elected.

16 *(d) Condition Making Preliminary Unnecessary* - If at the expiration of the
17 time for filing statements of candidates to be voted for at any preliminary
18 election not more than twice as many such statements have been filed with
19 the city clerk for an office as are to be elected to such office, the candidates
20 whose statements have thus been filed shall be deemed to have been
21 nominated to said office, and their names shall be voted on for such office at
22 the succeeding regular or special election, as the case may be, and the city
23 clerk shall not print said names upon the ballot to be used at said
24 preliminary election and no other nomination to said office shall be made. If
25 in consequence it shall appear that no names are to be printed upon the
26 official ballot to be used at any preliminary election in any ward or wards of
27 the city, no preliminary election shall be held in any such ward or wards.

SECTION 7-4 REGULAR ELECTION

The regular city election shall be held on the first Tuesday following the first Monday in November in each odd-numbered year.

SECTION 7-5: BALLOT POSITION, REGULAR ELECTION

The order in which names of candidates for each office appear on the ballot for each office shall be determined by a drawing, by lot, conducted by the city clerk no later than 7 days after the certification of the preliminary election results. Such drawing shall be open to the public.

SECTION 7-6: NON-PARTISAN ELECTIONS

All elections for city offices shall be non-partisan, and election ballots shall be printed without any party mark, emblem, or other political designation.

SECTION 7-7: WARDS

The territory of the city shall be divided into X wards by the city clerk so established as to consist of as nearly an equal number of inhabitants as it is possible to achieve based on compact and contiguous territory, bounded as far as possible by the center line of known streets or ways or by other well-defined limits. Each such ward shall be composed of voting precincts established in accordance with general laws. The city council shall from time to time, but at least once in each 10 years, review these wards to insure their uniformity in number of inhabitants.

SECTION 7-8: APPLICATION OF STATE GENERAL LAWS

Except as otherwise expressly provided in this charter and authorized by law, all city elections shall be governed by the laws of the Commonwealth relating to the right to vote, the registration of voters, the nomination of candidates, voting places, the conduct of preliminary, regular and special elections, the submission of charters, charter amendments and other propositions to the voters, the counting of votes, the recounting of votes, and the determination of results.

ARTICLE 8

CITIZEN PARTICIPATION MECHANISMS

SECTION 8-1 FREE PETITION

The city council or the school committee shall hold a public hearing and act with respect to every petition which is addressed to it, which is signed by 100 or more voters, and which seeks the passage of a measure. The hearing shall be held by the city council or the school committee and the action by the city council or the school committee shall be taken not later than 6 weeks after the petition is filed with the city clerk or the secretary of the school committee. Hearings on 2 or more petitions filed under this section may be held at the same time and place. The city clerk or the secretary of the school committee shall mail notice of the hearing to the 10 persons whose names appear first on the petition at least 7 days before the hearing. Notice, by publication, of all such hearings shall be at public expense.

SECTION 8-2: CITIZEN INITIATIVE MEASURES

(a) *Commencement* - Initiative procedures shall be started by the filing of a proposed initiative petition with the city clerk or the secretary of the school committee. The petition shall be addressed to the city council or to the school committee, shall contain a request for the passage of a particular measure which shall be set forth in full in the petition, and shall be signed by at least 250 voters. At least 25 signatures must be certified from each ward. The petition shall be accompanied by an affidavit signed by 10 voters and containing their residential address stating they will constitute the petitioners committee and be responsible for circulating the petition and filing it in proper form.

(b) *Referral to City Solicitor* - The city clerk or the secretary of the school committee shall, immediately following receipt of a proposed petition, deliver a copy of the petition to the city solicitor. The city solicitor shall, within 15 days following receipt of a copy of the petition, in writing, advise the city

1 council or the school committee whether the measure as proposed may
2 lawfully be proposed by the initiative process and whether, in its present
3 form it may be lawfully adopted by the city council or the school committee.
4 If the opinion of the city solicitor is that the measure is not in proper form,
5 the reply shall state the reasons for this opinion, in full. A copy of the
6 opinion of the city solicitor shall also be mailed to the person designated as
7 clerk of the petitioners committee.

8 *(c) Submission to City Clerk* - If the opinion of the city solicitor is that the
9 petition is in a proper form, the city clerk shall provide blank forms for the
10 use of subsequent signers, and shall print at the top of each blank form a
11 fair, concise summary of the proposed measure, as determined by the city
12 solicitor, together with the names and addresses of the first 10 voters who
13 signed the originating petition. Within 30 days following the date the blank
14 forms are issued by the city clerk, the petitions shall be returned and filed
15 with the city clerk signed by at least 10 percent of the total number of voters
16 as of the date of the most recent city election. Signatures to an initiative
17 petition need not all be on 1 paper, but all papers pertaining to any one
18 measure shall be fastened together and shall be filed as a single instrument,
19 with the endorsement on it of the name and residence address of the person
20 designated as filing the same. With each signature on the petition there shall
21 also appear the street and number of the residence of each signer. Within 10
22 days following the filing of the petition, the registrars of voters shall
23 ascertain by what number of voters the petition has been signed, and what
24 percentage that number is of the total number of voters as of the date of the
25 most recent regular city election. The registrars of voters shall attach to the
26 petition a certificate showing the results of its examination and shall return
27 the petition to the city clerk, or the secretary of the school committee,
28 depending on how the petition is addressed. A copy of the registrars of

1 voters' certificate shall also be mailed to the person designated as clerk of
2 the petitioners committee.

3 *(d) Action on Petitions* - Within 30 days following the date a petition has
4 been returned to the city clerk or the secretary of the school committee, and
5 after publication under subsection (f), the city council or the school
6 committee shall act with respect to each initiative petition by passing it
7 without change, by passing a measure which is stated to be in lieu of the
8 initiative measure, or by rejecting it. The passage of a measure which is in
9 lieu of an initiative measure shall be deemed to be a rejection of the
10 initiative measure. If the city council or the school committee fails to act
11 with respect to any initiative measure which is presented to it within 30 days
12 following the date the measure is returned to it, the measure shall be
13 deemed to have been rejected on the thirtieth day. If an initiative measure
14 is rejected, the city clerk or the secretary of the school committee shall
15 promptly give notice of that fact to the person designated as the clerk of the
16 petitioners committee, by certified mail.

17 *(e) Supplementary Petitions* - Within 60 days following the date an initiative
18 petition has been rejected, a supplemental initiative petition may be filed
19 with the city clerk or the secretary of the school committee, but only by
20 persons constituting the original petitioners committee. The supplemental
21 initiative petition shall be signed by a number of additional voters which is
22 equal to at least 5 percent of the total number of voters as of the date of the
23 most recent city election, and the signatures on the initial petition filed
24 under subsection (c), and the signatures on the supplemental petition filed
25 under this subsection, taken together, shall contain the signatures of at least
26 15 percent of the total number of voters in the city. If the number of
27 signatures to this supplemental petition is found to be sufficient by the city
28 clerk, the city council shall call a special election to be held on a date fixed
29 by it not less than 35 nor more than 90 days following the date of the

1 certificate of the city clerk that a sufficient number of voters have signed the
2 supplemental initiative petition and shall submit the proposed measure,
3 without alteration, to the voters for determination, but if any other city
4 election is to be held within 120 days following the date of the certificate,
5 the city council may omit the calling of such special election and cause the
6 question to appear on the election ballot at the approaching election for
7 determination by the voters.

8 *(f) Publication* - The full text of any initiative measure which is submitted to
9 the voters shall be published in at least 1 newspaper of general circulation in
10 the city not less than 7 nor more than 14 days preceding the date of the
11 election at which the question is to be voted upon. Additional copies of the
12 full text shall be available for distribution to the public in the office of the city
13 clerk.

14 *(g) Form of Question* - The ballots used when voting on a measure proposed
15 by the voters under this section shall contain a question in substantially the
16 following form: Shall the following measure which was proposed by an
17 initiative petition take effect?

18 (Here insert a fair, concise summary prepared by the petitioners, and
19 approved by the city solicitor.)

20 o YES

21 o NO

22 *(h) Time of Taking Effect* - If a majority of the votes cast on the question is
23 in the affirmative, the measure shall be deemed to be effective immediately,
24 unless a later date is specified in the measure.

25 **SECTION 8-3: CITIZEN REFERENDUM PROCEDURES**

26 *(a) Petition, Effect on Final Vote* - If, within 21 days following the date on
27 which the city council or the school committee has voted finally to approve
28 of any measure, a petition signed by a number of voters equal to at least 15
29 percent of the total number of voters as of the date of the most recent

regular city election and addressed to the city council or to the school committee as the case may be, protesting against the measure or any part of it is filed with the secretary of the school committee or city clerk, the effective date of such measure shall be temporarily suspended. The school committee or the city council shall immediately reconsider its vote on the measure or part of it, and, if the measure is not rescinded, the city council shall provide for the submission of the question for a determination by the voters either at a special election which it may call at its convenience, or within such time as may be requested by the school committee, or at the next regular city election, but pending this submission and determination, the effect of the measure shall continue to be suspended.

(b) Certain Initiative Provisions to Apply - The petition described in this section shall be termed a referendum petition and the applicable provisions of section 8-2 as they relate to the filing and certification of signatures shall apply to such referendum petitions, except that the words "measure or part thereof protested against" shall be deemed to replace the word "measure" and the word "referendum" shall be deemed to replace the word "initiative". The measure or part protested against shall be null and void unless a majority of those voting on the question shall vote in favor of the measure or part protested against at the election.

SECTION 8-4: INELIGIBLE MEASURES

None of the following shall be subject to the initiative or the referendum procedures:

- (1) proceedings relating to the internal organization or operation of the city council or of the school committee;
- (2) an emergency measure adopted under the charter;
- (3) the city budget or the school committee budget as a whole;
- (4) any appropriation for the payment of the city's debt or debt service;

(5) an appropriation of funds to implement a collective bargaining agreement;

(6) proceedings relating to the appointment, removal, discharge, employment, promotion, transfer, demotion, or other personnel action;

(7) any proceedings repealing or rescinding a measure or part of it which is protested by referendum procedures;

(8) any proceedings providing for the submission or referral to the voters at an election; and

(9) resolutions and other votes constituting ordinary, routine matters not suitable as the subject of a referendum petition.

SECTION 8-5 RECALL

(a) Application - Any holder of an elected office in the city, with more than 6 months remaining in the term of office for which the officer was elected, may be recalled therefrom by the voters of the city in the manner provided in this section. No recall petition shall be filed against an officer within 6 months after taking office.

(b) Recall Petition - A recall petition may be initiated by the filing of an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for recall, provided that the affidavit is signed by at least 500 voters for any officer elected at-large, of which at least 50 such signatures shall come from the voters of each ward and at least 300 voters for any officer elected by ward; all such signatures to be from voters of the ward from which the officer was elected. The city clerk shall thereupon deliver to said voters making the affidavit, copies of petition blanks demanding such recall, copies of which printed forms the city clerk shall keep available. Such blanks shall be issued by the city clerk, with signature and official seal attached thereto. They shall be dated, shall be addressed to the city council and shall contain the names of all the persons to whom they are issued, the number of blanks so issued, the name of the person whose

1 recall is sought, the office from which removal is sought and the grounds of
2 recall as stated in the affidavit. A copy of the petition shall be entered in a
3 record book to be kept in the office of the city clerk. Said recall petition shall
4 be returned and filed with the city clerk within 28 days after the filing of the
5 affidavit, and shall have been signed by at least 20 percent of the voters of
6 the city. The city clerk shall forthwith submit the petition to the registrars of
7 voters, and the registrars shall, within 5 working days, certify thereon the
8 number of signatures which are names of voters.

9 *(c) Recall Election* - If the petition shall be found and certified by the city
10 clerk to be sufficient, the city clerk shall submit the same with such
11 certificate to the city council within 5 working days, and the city council shall
12 forthwith give written notice of the receipt of the certificate to the officer
13 sought to be recalled and shall, if the officer does not resign within 5 days
14 thereafter, order an election to be held on a date fixed by them not less than
15 64 days and not more than 90 days after the date of the city clerk's
16 certificate that a sufficient petition has been filed; provided, however, that if
17 any other city election is to occur within 150 days after the date of the
18 certificate the city council shall postpone the holding of the recall election to
19 the date of such other election. If a vacancy occurs in said office after a
20 recall election has been ordered, the election shall not proceed as provided
21 in this section.

22 *(d) Office Holder* - The incumbent shall continue to perform the duties of the
23 office until the recall election. If said incumbent is not recalled, the
24 incumbent shall continue in office for the remainder of the unexpired term
25 subject to recall as before. If recalled, the officer shall be deemed removed
26 and the office vacant. The vacancy created thereby shall be filled in
27 accordance with the provisions of Articles 2, 3 and 4 of this charter for filling
28 vacancies in such office. A person chosen to fill the vacancy caused by such
29 recall shall hold office until the next regular city election. Should the person

1 be a candidate in the subsequent election, he or she will not be allowed to
2 have "candidate for re-election" appear on the ballot at such election.

3 (e) *Ballot Proposition* - The form of the question to be voted upon shall be
4 substantially as follows: "Shall [here insert the name and title of the elective
5 officer whose recall is sought] be recalled?" Yes No

6 If a majority of the votes cast upon the question of recall is in the
7 affirmative, such elected officer shall be recalled.

8 (f) *Repeat of Recall* - In the case of an officer subjected to a recall election
9 and not recalled thereby, no recall petition shall be filed against such officer
10 until at least 270 days after the election at which the officer's recall was
11 submitted to the voters of the city.

12 (g) *Office Holder Recalled* - No person who has been recalled from an office
13 or who has resigned from office while recall proceedings were pending
14 against such person, shall be appointed to any city office or position of
15 employment within 2 years after such recall or such resignation.

16 **SECTION 8-6: REQUIRED VOTER PARTICIPATION**

17 For any measure to be effective under initiative procedure and for any
18 measure to be declared null and void under any referendum procedure, and
19 for any recall election, at least 20 percent of the voters as of the most recent
20 regular city election must vote at an election that includes on the ballot
21 submission of one or more initiative, referendum or recall questions to the
22 voters.

23 **SECTION 8-7: SUBMISSION OF OTHER MATTERS TO VOTERS**

24 The city council may of its own motion, and shall, at the request of the
25 school committee if a measure originates with that body and pertains to
26 affairs under its jurisdiction, submit to the voters at any regular city election
27 for adoption or rejection any measure in the same manner and with the
28 same force and effect as are hereby provided for submission by petitions of
29 voters.

SECTION 8-8: CONFLICTING PROVISIONS

If 2 or more measures passed at the same election contain conflicting provisions, only the one receiving the greatest number of affirmative votes shall take effect.

DRAFT

CITIZEN RELIEF MECHANISMS IN CHARTERS

There are four procedural devices charters can include which increase the access of residents to local government decision-making: free petition, initiative, referendum, and recall. These four procedures are described below:

FREE PETITION: Allows an individual or group to present a measure to the city council or school committee for action. Council or school committee may take discretionary action on *individual* petitions. For group petitions (number of signatures determined in the charter), council/school committee must hold public hearing within three months of receiving the petition. Notice must be posted. Signature requirements for group petitions range from 50 (Gloucester) to 150 (Watertown). *Few Massachusetts municipal charters include free petition provisions.*

INITIATIVE: Allows a certain percentage of voters by signing a petition (number of signatures determined in the charter) to require the city council or school committee to take action. If the council/school committee does not act, the substance of the petition will appear on the municipal election ballot. If enacted by the voters, the action proposed by the petition will take effect.

There are several steps in the initiative process:

- filing petition with city clerk
- signatures by certain percentage (%) of the voters
- clerk certifies signatures
- petition referred to city solicitor for review
- council may hold public hearing and/or allow for public inspection of petitions.
- council/school committee takes action on petition; if enacted, process ends here. If not enacted,
- charter may require special election for voters to consider the petition unless a regularly scheduled election will be held within 90-125 days OR petition can appear on ballot at next regular municipal election.

A significant majority of Massachusetts city charters include an initiative process, although it has not been used frequently.

REFERENDUM: Allows voters to petition for the repeal of a measure enacted by the council, or require that a certain council action be affirmed by the voters before taking effect. (For example, the LYNN charter requires the decision to approve debt obligation above \$4 million be approved by the voters.) The charter may include a listing of items which CANNOT BE SUBJECT to a referendum, such as -- revenue loan orders, matters

relating to the organization of the council or school committee, budgets, and/or collective bargaining agreements.

REFERENDUM:
(continued)

The charter provision authorizing referendum would need to include:

- percentage of voters to petition for referendum vote
- time limit for the collection of such signatures
- certification process
- if sufficient signatures certified, option for council to reconsider.
- charter may require special election for voters to consider the referendum question unless a regularly scheduled election will be held within 90-125 days OR referendum question can appear on ballot at next regular municipal election.
- charter may also require that a certain percentage of voters participate in the election for its results to be valid (e.g., 20

25%).

Most Massachusetts city charters include an referendum provision, although it has not been used frequently.

RECALL:

The recall procedure allows voters to consider the removal of an elected official from office prior to the completion of his/her term. There are no specific grounds identified which would "trigger" the use of recall. A recall provision requires very careful consideration of numerous factors to assure that it will not be used frivolously, but can be used if the need arises. Among the issues to decide are:

- will any elected officials be exempt from recall?
- how many signatures to require for a recall AFFIDAVIT (the first step in the process.)
- how many signatures to require for a recall PETITION?
- should provision require that a minimum number of signatures come from each ward/precinct in the city?
- how much time to allow for the collection of PETITION signatures (20 days is the most popular time frame)?
- can the officer subject to recall be allowed to be a candidate in the recall election?
- will provision give opportunity for the officer to resign?
- will recall be prohibited at certain times (e.g., first three months, last six months of the term)?
- will provision require participation of a minimum number of voters in the recall election for its results to be valid?

Only about 1/4 of Massachusetts city charters contain a recall provision. Recall has not been used often in cities.

In addition to these four procedures, the charter could also include a provision allowing the council and/or the school committee to include **non-binding public opinion advisory questions** on the ballot at regular city elections to assess voter response to certain issues. It is probably

best to limit the number of such questions to two or three so that voters will be able to focus on the major issues on which the council/school committee would appreciate voter guidance. *Such questions are allowed by state law; the Gloucester charter sets a limit of three such questions on the ballot.*

CITIZEN RELIEF MECHANISMS IN CHARTERS

There are four procedural devices charters can include which increase the access of residents to local government decision-making: **free petition, initiative, referendum, and recall.** These four procedures are described below:

FREE PETITION

Allows an individual or group to present a measure to the city/town council or school committee for action. Council or school committee may take discretionary action on *individual* petitions. For group petitions (number of signatures determined in the charter), council/school committee must hold public hearing within three months of receiving the petition. Notice must be posted. Signature requirements for group petitions range from 50 (Gloucester) to 150 (Watertown). *Very few Massachusetts municipal charters include free petition provisions.*

INITIATIVE

Allows a certain percentage of voters by signing a petition (number of signatures determined in the charter) to require the city/town council or school committee to take action. If the council/school committee does not act, the substance of the petition will appear on the municipal election ballot. If enacted by the voters, the action proposed by the petition will take effect. There are several steps in the initiative process:

- filing petition with city clerk
- signatures by certain percentage (%) of the voters
- clerk certifies signatures
- petition referred to city solicitor for review
- council may hold public hearing and/or allow for public inspection of petitions.
- council/school committee takes action on petition; if enacted, process ends here. If not enacted,
 - charter may require special election for voters to consider the petition unless a regularly scheduled election will be held within 90-125 days OR petition can appear on ballot at next regular municipal election.

Most Massachusetts city charters include an initiative process, although it has not been used frequently.

REFERENDUM

Allows voters to petition for the repeal of a measure enacted by the city/town council, or require that a certain council action be affirmed by the voters before taking effect. (For

example, the LYNN charter requires that the decision to approve debt obligation above \$4 million be approved by the voters.) The charter may include a listing of items which CANNOT BE SUBJECT to a referendum, such as -- revenue loan orders, matters relating to the organization of the council or school committee, budgets, and/or collective bargaining agreements.

The charter provision authorizing referendum would need to include:

- percentage of voters to petition for referendum vote
- time limit for the collection of such signatures
- certification process
- if sufficient signatures certified, option for council to reconsider.
- charter may require special election for voters to consider the referendum question

unless a regularly scheduled election will be held within 90-125 days OR referendum question can appear on ballot at next regular municipal election.

- charter may also require that a certain percentage of voters participate in the election for its results to be valid (e.g., 20 - 25 %).

Most Massachusetts city charters include a referendum provision, although it has not been used frequently.

RECALL

The recall procedure allows voters to consider the removal of an elected official from office prior to the completion of his/her term. There are no specific grounds identified which would "trigger" the use of recall. A recall provision requires very careful consideration of numerous factors to assure that it will not be used frivolously, but can be used if the need arises. Among the issues to decide are:

- will any elected officials be exempt from recall?
- how many signatures to require for a recall AFFIDAVIT (first step in the process.)?
- how many signatures to require for a recall PETITION?
- should provision require that a minimum number of signatures come from each ward/precinct in the city/town?
- how much time to allow for the collection of PETITION signatures (20 days is the most popular time frame)?
- can the officer subject to recall be allowed to be a candidate in the recall election?
- will provision give opportunity for the officer to resign?
- will recall be prohibited at certain times (e.g., first three months, last six months of the term)?
- will provision require participation of a minimum percentage of voters in the recall election for its results to be valid?

Eight Massachusetts cities and 130 towns authorize recall. Recall has not been used often in cities.

In addition to these four procedures, the charter could also include a provision allowing the council and/or the school committee to include **non-binding public opinion advisory questions**

on the ballot at regular city elections to assess voter response to certain issues. It is probably best to limit the number of such questions to two or three so that voters will be able to focus on the major issues on which the council/school committee would appreciate voter guidance. *Such questions are allowed by state law; the Gloucester charter sets a limit of three such questions on the ballot.*

MC/EOCD: 3/94

CITIZEN RELIEF PROCEDURES IN CITIES

FREE PETITION	Agawam
	Gloucester
	Methuen
	Newton
	Watertown
RECALL	Fall River
	Leominster
	Lynn
	Methuen
	Pittsfield
	Springfield
INITIATIVE	Taunton
	ALL CITIES, except Boston, Everett, Melrose, Pittsfield
REFERENDUM	ALL CITIES

CITIZEN RELIEF PROCEDURES IN CITIES (Mayor - Council form of govt.)

CITY	Free Petition	Initiative	Referendum	Recall
Agawam	x	x	x	--
Amesbury	x	x	x	x
Attleboro	--	x	x	--
Beverly	x	x	x	--
Boston	--	--	x	--
Braintree		x	x	x
Brockton	--	x	x	--
Chicopee	--	x	x	--
Easthampton*	x	x	x	x
Everett	--	--	x	--
Fall River	--	x	x	x
Fitchburg	--	x	x	--
Gardner	--	x	x	--
Gloucester	x	x	x	--
Greenfield	x	x	x	--
Haverhill	--	x	x	--
Holyoke	--	x	x	--
Lawrence	x	x	x	x
Leominster	--	x	x	x
Lynn	x	x	x	x
Malden	--	x	x	--
Marlborough	--	x	x	--
Medford	--	x	x	--
Melrose	x	x	x	--
Methuen	x	x	x	x
New Bedford	--	x	x	--
Newburyport	--	x	x	--

* - 20% voter threshold for initiative and referendum elections

CITY	Free Petition	Initiative	Referendum	Recall
Newton	x	x	x	--
North Adams	--	x	x	--
Northampton	--	x	x	--
Peabody	--	x	x	--
Pittsfield	--	--	--	x
Quincy	--	x	x	--
Revere	--	x	x	--
Salem	--	x	x	--
Somerville	--	--	x	--
Springfield	--	x	x	x
Taunton	?	?	?	x
Waltham	--	x	x	--
Watertown	x	x	x	--
W. Springfield	x	x	x	x
Westfield	--	x	x	--
Weymouth	--	x	x	x
Woburn	--	x	x	--

Cities with 4 year mayoral term:

Boston
Braintree
Lawrence
Malden
Melrose
Newton
Revere
Salem
Waltham
Weymouth

Lowell	--	X	X	--
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CITIZEN RELIEF PROCEDURES IN CITIES

CITY	Free Petition	Initiative	Referendum	Recall
Agawam	x	x	x	--
Gloucester				
Methuen				
Newton				
Watertown				
Attleboro	--	x	x	--
Beverly	--	x	x	--
Boston --		--	x	--
Brockton	--	x	x	--
Cambridge	--	x	x	--
Chicopee	--	x	x	--
Everett --		--	x	--
Fall River	--	x	x	x
Fitchburg	--	x	x	--
Gardner	--	x	x	--
x		x	x	--
Haverhill	--	x	x	--
Holyoke	--	x	x	--
Lawrence	--	x	x	--
Leominster	--	x	x	x
Lowell --		x	x	--
Lynn	x	x	x	x
Malden	--	x	x	--
Marlborough	--	x	x	--
Medford	--	x	x	--

Melrose	--	--	X	--
X	X	X	X	
New Bedford	--	X	X	--
Newburyport	--	X	X	--
X	X	X	--	
North Adams	--	X	X	--

CITY	Free Petition	Initiative	Referendum	Recall
Northampton	--	X	X	--
Peabody	--	X	X	--
Pittsfield	--	--	--	X
Quincy	--	X	X	--
Revere	--	X	X	--
Salem	--	X	X	--
Somerville	--	--	X	--
Springfield	--	X	X	X
Taunton				X
Waltham	--	X	X	--
X	X	X	--	
Westfield	--	X	X	--
Woburn	--	X	X	--
Worcester	--	X	X	--

FREE PETITION

Section - Petitions to Council or School Committee

(a) Individual Petitions - The city council and school committee shall receive all petitions signed by one or more voters and addressed to either of them and may, in their discretion, take such action in regard to such petitions as they deem necessary and advisable. *(optional provision)*

(b) Group petitions - The town council or the school committee shall hold a public hearing and act with respect to every petition which is addressed to it, which is signed by - *insert signature requirement* - , or more, and which seeks the passage of a measure. The hearing shall be held by the city council or the school committee, or, in either case, by a committee or sub-committee thereof, and the action by the city council or the school committee shall be taken not later than three months after the petition is filed with the clerk of the council or the secretary of the school committee, as may be appropriate. Hearings on two or more petitions filed under this section may be held at the same time and place. The clerk of the council or the secretary of the school committee shall mail notice of the hearing to the ten persons whose names appear first on the petition at least - *seven days (forty-eight hours)* - before the hearing. Notice, by publication, of all such hearings shall be at public expense.

ADVISORY QUESTIONS

Section - Advisory Questions to Voters

At each regular city election there shall appear on the ballot up to three non-binding advisory questions to determine voter sentiment. Two of these questions shall be proposed by the city council and shall deal with the affairs of the city in general. The third question may be posed by the school committee and shall, if so used, deal with a questions relating to affairs under its jurisdiction. In the event that the school committee does not use the question allowed it under this section, the city council may propose a third question.

Within three months following the organization of the city government following each election the city council shall take up the subject matter of the advisory questions which were proposed by it and act upon their merits. The school committee shall, within a similar period, take up any questions proposed by it and act upon their merit.

FEATURES OF INITIATIVE PROVISION

DECISIONS

- required signatures (percentage of registered voters) - 2%, 10%, 20%, 5% each precinct
- number of days to certify signatures - 5, 7, 10
- allow public inspection of petition - yes/no
- referral to city solicitor (15 day review)
- council/committee to act within certain number of days - 20, 30
- council/committee to hold public hearing - yes/no
- require supplemental petitions before question can appear on ballot - yes/no
- require special election to be held - yes/no

IF Yes, 5%, 8%, 10

FEATURES OF REFERENDUM PROVISION

DECISIONS

- required signatures (percentage of registered voters) - 10%, 15%, 20%, 5% each precinct
- number of days to collect signatures - 5, 14, 20, 21
- allow reconsideration by council - yes/no

- require special election to be held - *yes/no*

- require specific percentage of voters to participate in election - 20%, 25%

ITEMS EXCLUDED FROM INITIATIVE AND REFERENDUM PROCEEDINGS:

- measures relating to internal organization of council or school committee
- emergency measure adopted in conformity with the charter
- town budget or school committee budget as a whole
- revenue loan orders
- appropriation for debt service
- appropriation to implement collective bargaining agreement
- proceedings relating to personnel actions (appointment, removal, discharge, etc.)
- repeal of measure which is subject of referendum proceedings
- measures enacted by the council which include a referendum provision within the measure itself (i.e., you can't have a referendum on whether or not to allow a referendum).

FEATURES OF RECALL PROVISION

DECISIONS

- who can be recalled -

1) all councillors and school committee members, OR

2) only councillors at large

- number of signatures to file an affidavit - 50, 100, 200, 300, 500, 5% of voters
- number of signatures required on petition - 10%, 20%, 50% (20% most common)
- time allowed to collect signatures - 10, 20, 30, 60 days (20 days most common)
- additional signature requirements - *minimum number or percentage per precinct; maximum per precinct - examples of minimum - 10%, 50 signatures; examples of maximum - 25%, 40%*
- scheduling of recall election - *within 60, 90, 120 days unless another municipal election will be held within 100 -120 days*
- resignation - allow officer(s) subject to recall to resign within 5 days of petition certification
- hold election if officer resigns - *yes/no*

- fill vacancy at recall election - yes/no (~~if vacancy not filled at recall election, other charter provisions re: filling of vacancies will be in effect~~)
- allow officer subject to recall to be candidate in recall election - yes/no
- times in term when recall is prohibited - *1st three to six months of term, last six months of term, if subject to prior recall and NOT recalled*
- require specific percentage of voters to participate in election - 20%, 25%, 30%, 40%

Section - Citizen Initiative Measures

(a) Commencement of Proceedings

Initiative procedures shall be started by the filing of an initiative petition with the city clerk. The petition shall be addressed to the city council or the school committee, shall contain a request for passage of a particular measure set forth in the petition and shall be signed by **not less than fifteen percent of the total number of voters, provided however, that 15% of the voters in each precinct sign the petition..**

Signatures to initiative petitions need not be all on one paper. All such papers pertaining to any one measure shall be fastened together and shall be filed in the office of the city clerk as one instrument, with the endorsement thereon of the names and addresses of the persons designated as filing the same. With each signature to the petition, shall be stated the place of residence of the signer, giving the street and number, if any.

Within ten days of the filing of said petition the registrars of voters shall ascertain by what number of voters the petition is signed, and shall attach thereto their certificate showing the result of such examination.

The city clerk shall forthwith transmit the said certificate with the said petition to the city council or to the school committee, as appropriate, and at the same time shall send a copy of said certificate to the persons designated on the petition as filing the same.

When such certificate has been so transmitted, said petition shall be deemed to be valid unless written objections are made with regard to the signatures thereon by a voter within forty-eight hours after such certification by filing such objections with the city council or the school committee, and a copy thereof with the registrars of voters. Any such objection shall be determined forthwith.

(b) Referral to City Solicitor

If the city clerk determines that a sufficient number of signers are voters, the city clerk shall transmit a copy of the petition to the city solicitor.

Within fifteen days after receipt by the city solicitor of the petition the city solicitor shall advise the city clerk in writing whether the measure may be proposed by initiative procedures and whether it may be lawfully passed by the city council or the school committee. If the opinion of the city solicitor is that the measure may not lawfully be passed, the city solicitor shall state the reason or reasons therefor in said reply. The city clerk shall forthwith furnish a copy of the city solicitor's opinion to the person designated on the petition as filing the same.

(c) Initiative petition: Requirements for passage and Submission to Electorate

If any initiative petition is signed by voters equal in number to at least fifteen percent of the total number of voters, **such signatures to be from fifteen percent of the voters of every precinct,** and in the opinion of the city solicitor, such measure may be lawfully passed by the city council or school committee, the city council or school committee within thirty days after the date of the certificate of the registrars to that effect: (1) may pass said measure without alteration, subject to

the referendum vote provided in this charter; or (2) the city council shall call a special election to be held on a date fixed by it not less than sixty days after the date of the certificate hereinbefore mentioned, and shall submit the proposed measure without alteration to a vote of the voters at that election; provided, that if any city election is otherwise to occur within one hundred twenty days after the date of said certificate, the city council may, at its discretion, omit the calling of a special election and submit the proposed measure to the voters at such approaching election.

The ballots used when voting upon a proposed measure under this section shall state the nature of the measure in terms sufficient to show the substance thereof.

Section - Citizen Referendum Procedures

If within **forty-five days** after the final passage of any measure a petition signed by voters equal in number to at least fifteen per cent of the total number of voters, such signatures to be from at least fifteen per cent of the voters in each (precinct, ward) of the city, and addressed to the city council or to the school committee, as the case may be, protesting against such measure or any part thereof taking effect, is filed with the city clerk, the same shall thereupon be suspended from taking effect; and the council or the school committee, as the case may be, shall immediately reconsider such measure or part thereof; and if such measure or part thereof is not entirely rescinded, the city council shall submit the same, by the method herein provided, to vote of the voters at a special election to be held on a date fixed by it within 60 days, provided however, that if any city election is otherwise to occur within one hundred twenty days after the date of **said reconsideration vote**, the city council may, at its discretion, omit the calling of a special election and submit the proposed measure to the voters at such approaching election. Such measure shall forthwith become null and void unless a majority of the voters voting on the same at such election vote in favor thereof. The petition described in this section shall be termed a referendum petition and section x - x(x) shall apply to the procedure in respect thereto, except that the words "measure or part thereof protested against" shall for this purpose be understood to replace "measure" in said section whenever it may occur, and "referendum" shall be understood to replace the word "initiative" in said section.

Section - Required voter participation

For any measure to be effective under initiative or referendum procedure(s) **at least fifty percent of the voters** shall vote at an election upon which an initiative or referendum question is submitted to the voters.

Section Measures not Subject to Initiative and Referendum

Measures which include the following subject matter shall not be subject to initiative and referendum procedures: (a) revenue loan orders; (b) appropriations for the payment of debt or debt service; (c) internal operational procedures of the city council or school committee;

(d) emergency measures; (e) the city budget as a whole or the school committee budget as a whole; (f) appropriation of funds to implement a collective bargaining agreement; (g) procedures relating to election, appointment, removal, discharge, or any other personnel action; and (h) proceedings providing for the submission or referral of a matter to the voters at an election.

Section - Submission of Proposed Measure to the Voters (NOT discussed)

The city council may, of its own motion, and shall, upon request of the school committee if a measure originates with that committee and pertains to the affairs under its administration, submit to a vote of the voters for adoption or rejection at a general or special city election any proposed measure, or a proposition for the repeal or amendment of any measure, in the same manner, and with the same force and effect as are hereby provided for submission on petition.

Section - Measures with Conflicting Provisions (NOT discussed)

If two or more proposed measures passed at the same election contain conflicting provisions, only the one receiving the greater number of affirmative votes shall take effect.

Section - Recall of Elected Officials

[] - no decision by charter preparation team

(a) Application

Any person who holds an elected city office [for three months or more, with more than six months remaining of the term of office] at the time of the filing of the affidavit may be recalled from the office by the voters in the manner provided in this section. [No recall petition may be filed against an officer within (three, six months) of taking office.]

(b) Recall Petitions

A recall affidavit signed by at least [100, 200] voters for any officer elected at large and by at least [50, 100] for any officer elected by (ward, precinct) may be filed with the city clerk containing the name of the office whose recall is sought and a statement of the grounds for recall.

The board of registrars of voters shall certify such petitions with regard to the sufficiency and validity of the signatures of voters and within five working days following such filing the city clerk shall deliver to the ten persons first named on such petitions, petition blanks demanding said recall, printed forms of which the city clerk shall keep available. The blanks may be completed by printing or typewriting; they shall be addressed to the city council; they shall contain the names of the ten persons to whom they are issued and the grounds for the recall as stated in the affidavit; they shall be dated and signed by the city clerk. A copy of the petition shall be entered into the records kept in the office of the city clerk.

The recall petitions shall be returned to the office of the city clerk within twenty days following the date they are issued, signed by at least twenty percent of the total number of persons who voted at the most recent municipal election for officers elected at large, and, for officers elected

by (ward, precinct) signed [by at least twenty percent of the total number of persons who voted at the most recent municipal election from the (ward, precinct) the officer sought to be recalled represents.]

The city clerk shall forthwith submit the petition to the registrars of voters, and the registrars shall, within five working days, certify thereon the names of the registered voters of the city, or from the (ward, precinct) the officer sought to be recalled represents.

(c) Recall election

If the petition shall be found and certified by the city clerk to be sufficient, the city clerk shall submit the same with such certificate to the city council within five working days, and the city council shall forthwith give written notice of the receipt of the certificate to the officer sought to be recalled, and shall, if the officer does not resign within five days thereafter, order an election to be held on a date fixed by them not less than 60 days after the date of the city clerk's certificate, provided however, that if any city election is otherwise to occur within one hundred twenty days after the date of said certificate, the city council may, at its discretion, omit the calling of a special election and submit the proposed recall to the voters at such approaching election. The recall election for any officer elected by (ward, precinct) shall only be held in the precinct that the officer represents.

If a vacancy occurs in said office after a recall election has been ordered, the election shall not proceed as provided in this section.

(d) Office Holder

The incumbent shall continue to perform the duties of the office until the recall election. If said incumbent is not recalled, the incumbent shall continue in office for the remainder of the unexpired term subject to recall as before. If recalled, the officer shall be deemed removed and the office vacant. The vacancy created thereby shall be filled in accordance with this charter. Any person appointed to fill the vacancy caused by such recall shall hold office for the unexpired term of the officer recalled.

(e) Ballot Proposition

The form of the question to be voted upon shall be substantially as follows:

"Shall -- here insert the name and title of the elective officer whose recall is sought -- be recalled?" If [a majority] of the votes cast upon the question of recall is in the affirmative, such elected officer shall be recalled.

No recall election shall be effective unless at least 50% of those entitled to vote shall have voted.

(f) Repeat of Recall

[In the case of an officer subjected to a recall election and not recalled thereby, no recall petition shall be filed against such an officer until at least sixty days after the election at which the officer's recall was submitted to the voters of the city.]

(g) Office Holder Recalled

No person recalled from office or who has resigned from office while recalling proceedings were pending against such a person, shall be appointed to any city office with [two] years after such recall or resignation.